

Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Ch. VII

[Docket No. 950920234-6268-02]

RIN 0694-XX02

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign

policy-based export controls have affected exporters and the general public.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), foreign policy controls expire one year after imposition unless they are extended. The EAA requires a report to Congress whenever foreign policy-based export controls are extended. Although the EAA expired on August 20, 1994, the President, invoking the International Emergency Powers Act (IEEPA), continued in effect the export control system in place under the provisions of the Act and the Export Administration Regulations, to the extent permitted by law (Executive Order 12924 of August 19, 1994 and Notices of August 15, 1995 and August 14, 1996). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls and requesting comments on such controls. Foreign Policy controls need to be extended in January 1997.

DATES: Comments must be received by (30 DAYS FROM DATE OF PUBLICATION), to assure full consideration in the formulation of export control policies as they relate to foreign policy-based controls.

ADDRESSES: Written comments (three copies) should be sent to Patricia Muldonian, Regulatory Policy Division (Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Anita McNamee, Foreign Policy Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482-4252. Copies of the current 1996 Annual Foreign Policy Report to the Congress can also be requested.

SUPPLEMENTARY INFORMATION:

The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), Parts 742 and 776A (Special Commodity Policies and Provisions), 744 and 778A (Proliferation Controls), and 742 and 785A (Special Country Policies and Provisions). These controls apply to: high performance computers (§§742.12 and 776A.11); crime control and detection commodities (§§742.7 and 776A.14); specially designed implements of torture (§§742.11 and 776A.19); regional stability commodities and equipment (§§742.6 and 776A.16); equipment and related technical data used in the design, development, production, or use of missiles capable of delivering nuclear weapons (§§744.3 and

778A.7); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§§744.4 and 778A.8); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§§744.6 and 778A.9); embargoed countries (Part 746 and §785A.1); countries designated as supporters of acts of international terrorism (§§742.8, 742.9, 742.10, 746.2, 746.3, 746.5, 746.7 and 785A.4(d)); and, Libya (§§744.8, 746.4, and 785A.7). Attention is also given in this context to the controls on nuclear-related commodities and technical data (§§744.2 and 778A.2), which principally implement the Nuclear Non Proliferation Act and are not foreign policy-based controls in the exact sense.

Effective January 21, 1996, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria the Departments of Commerce and State consider in

determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;

4. The reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. The effect of the controls on the export performance of the United States, the competitive position of the United States

in the international economy, the international reputation of the United States as a supplier of goods and technology, or the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

6. The ability of the United States to enforce the controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in comments relating to the effects of foreign policy controls on exports of replacement and other parts.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should

be submitted to BXA separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." BXA will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Henry Gaston, BXA Freedom of Information Officer, at the above address or by calling (202) 482-5653.

DATED:

Sue E. Eckert
Assistant Secretary
for Export Administration

